

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE THE BEAR STEARNS COMPANIES,
INC. SECURITIES, DERIVATIVE, AND ERISA
LITIGATION

This Document Relates To:
Securities Action, No. 08 Civ. 2793 (RWS)

BRUCE S. SHERMAN,

Plaintiff,

v.

BEAR STEARNS COMPANIES INC., JAMES CAYNE,
WARREN SPECTOR AND DELOITTE & TOUCHE
LLP,

Defendants.

Master File No.:
08 MDL 1963 (RWS)

ECF Case

Index No.:
09 Civ. 8161 (RWS)

**DECLARATION OF MATTHEW J. HENKEN IN
SUPPORT OF PLAINTIFF'S RESPONSES AND OBJECTIONS
TO DEFENDANTS' LOCAL RULE 56.1 STATEMENT, AND
STATEMENT OF ADDITIONAL MATERIAL FACTS TO BE TRIED**

1. I am a lawyer at Boies, Schiller & Flexner LLP, counsel for Plaintiff Bruce S. Sherman. I submit this declaration in support of Plaintiff's Memorandum of Law in Support of His Opposition to Defendants' Motion for Summary Judgment; Plaintiff Bruce S. Sherman's Memorandum of Law in Support of His Opposition to Defendants' Motion to Exclude the Report and Testimony of John D. Finnerty; Plaintiff Bruce S. Sherman's Memorandum of Law in Support of His Opposition to Defendants' Motion to Exclude Evidence Concerning the SEC's Office of Inspector General, Office of Audits' Report, "SEC Oversight of Bear Stearns and

Related Entities”, dated October 13, 2015, in order to place before the Court documents that are referenced in the accompanying Plaintiff’s Memorandum of Law in Support of His Opposition to Defendants’ Motion for Summary Judgment; Plaintiff Bruce S. Sherman’s Memorandum of Law in Support of His Opposition to Defendants’ Motion to Exclude the Report and Testimony of John D. Finnerty, and Plaintiff Bruce S. Sherman’s Responses and Objections to Defendants; Local Rule 56.1 Statement, and Statement of Additional Material Facts to be Tried.

2. Exhibit 1 is a copy of excerpts from the transcript of the December 16, 2014 deposition of Bruce S. Sherman.

3. Exhibit 2 is a copy of a letter from Richard B. Drubel to Bear Stearns Securities Litigation Settlements Exclusions, Attach. 1; Securities Class Action, No. 08 Civ. 2793, Dkt. No. 249, Ex. A.

4. Exhibit 3 is a copy of excerpts from Bear Stearns’ Annual Report on Form 10-K for Fiscal Year Ended November 30, 2006, filed with the SEC on February 13, 2007.

5. Exhibit 4 is a copy of excerpts from Bear Stearns’ Annual Report on Form 10-K for Fiscal Year Ended November 30, 2007, filed with the SEC on January 29, 2008.

6. Exhibit 5 is a copy of excerpts from the transcript of the May 14, 2015 deposition of John D. Finnerty, Ph.D.

7. Exhibit 6 is a copy of excerpts from the transcript of the December 19, 2014 deposition of George Simeone.

8. Exhibit 7 is a copy of *Assessing the Madoff Ponzi Scheme and Regulatory Failures: Hearing Before the Subcomm. on Capital Markets, Insurance, and Government Sponsored Enterprises of the H. Comm. on Fin. Servs.*, 111th Cong. 2 (2009) (statement of H. David Kotz, SEC Inspector Gen.)

9. Exhibit 8 is a copy of excerpts from the transcript of the October 24, 2014 deposition of Thomas Marano.

10. Exhibit 9 is a copy of excerpts from the transcript of the December 4, 2014 deposition of Samuel L. Molinaro, Jr.

11. Exhibit 10 is a copy a February 12, 2008 article by Jody Shenn, *Bear Stearns Asset-Backed Hedge Fund Declined 52.5% in 2007*, Bloomberg, L.P., Feb. 12, 2008.

12. Exhibit 11 is a copy of excerpts from the transcript of the May 28, 2015 deposition of Allen Ferrell.

13. Exhibit 12 is a copy of John Finnerty & George Pushner, *An Improved Two-Trader Model for Measuring Damages in Securities Fraud Class Actions*, 8 Stan. J. L. Bus. & Fin. 213-63 (2003).

14. Exhibit 13 is a copy of a January 9, 2008 article by Elizabeth Hester, *Bear Stearns CEO Says Firm Is Adequately Marked to Market*, Bloomberg, L.P., Jan. 9, 2008.

15. Exhibit 14 is a copy of excerpts from the transcript of the December 9, 2014 deposition of Alan Schwartz.

16. Exhibit 15 is a copy of a June 22, 2007 of Thomson StreetEvents, *Preliminary Transcript: BSC-Bear Stearns Comments on BSAM Structured Credit Strategies Funds* (June 22, 2007)

17. Exhibit 16 is a copy of an August 3, 2007 article *Bear Stearns Responds to S&P Action*, Bloomberg, L.P., Aug. 3, 2007.

18. Exhibit 17 is a copy of a September 20, 2007 article from Thomson StreetEvents, *BSC – Q3 2007 Bear Stearns Earnings Conference Call*, at 6 (Sept. 20, 2007).

19. Exhibit 18 is a copy of a November 14, 2007 article from Bloomberg News, *Bear Stearns Presentation Teleconference (Transcript) BSC US* (Nov. 14, 2007).

20. Exhibit 19 is a copy of a December 20, 2007 article from Thomson StreetEvents, *BSC – Q4 2007 Bear Stearns Earnings Conference Call*, at 7 (Dec. 20, 2007)..

21. Exhibit 20 is a copy of excerpts from the transcript of the December 5, 2014 deposition of Paul Friedman.

22. Exhibit 21 is a copy of a December 20, 2007 article *Bear Stearns Reports Full Year and Fourth Quarter 2007*, Bloomberg, L.P., Dec. 20, 2007.

23. Exhibit 22 is a copy of a December 20, 2007 article from Deutsche Bank, *More Broad Based Problems* (Dec. 20, 2007).

24. Exhibit 23 is a copy of a December 20, 2007 article from Deutsche Bank, *Lowering estimates and Price Target*” (Dec. 20, 2007).

25. Exhibit 24 is a copy of a December 20, 2007 article from Wachovia, *BSC: A Year to Forget But Franchise Has Long Term Value* (Dec. 20, 2007).

26. Exhibit 25 is a copy of a December 21, 2007 article from UBS, *Managing Through Tough Times* (Dec. 21, 2007).

27. Exhibit 26 is a copy of a December 21, 2007 article *BSC: Bear Stearns: CNBC Commentator Says Sources Indicate BSC in Talks with Fortress for Additional Capital Infusion*, Bloomberg, L.P., Dec. 21, 2007.

28. Exhibit 27 is a copy of a December 21, 2007 article *Bear Stearns-BSC: Down on Spec*, Bloomberg, L.P., Dec. 21, 2007.

29. Exhibit 28 is a copy of a January 8, 2008 report by Punk Ziegel & Co., *Failed Business Model? Lowering Price Target to \$67 from \$94* (Jan. 8, 2008).

30. Exhibit 29 is a copy of a February 8, 2008 report by Punk Ziegel & Co., *Bear Stearns (NYSE: BSC), Update Report – Price \$80.79* (Feb. 8, 2008).

31. Exhibit 30 is a copy of a February 28, 2008 article from Deutsche Bank, *Lowering Estimates and Target* (Feb. 28, 2008).

32. Exhibit 31 is a copy of a March 10, 2008 article Bear Stearns Ex-Chairman Calls Rumors 'Ridiculous,' CNBC Says, Bloomberg, L.P., Mar. 10, 2008.

33. Exhibit 32 is a copy of excerpts from the transcript of the June 22, 2015 deposition of Rene M. Stulz.

34. Exhibit 33 is a copy of a March 10, 2008 article *HousingWire: Bear Stearns Drops on Cash Crunch Rumors*, Bloomberg, L.P., Mar. 10, 2008; *MarketWatch: Bear Stearns Shares Drop on Liquidity Concerns*, Bloomberg, L.P., Mar. 10, 2008.

35. Exhibit 34 is a copy of a March 10, 2008 article *Asia Day Ahead: Bear Stearns Declines on Liquidity Speculation*, Bloomberg, L.P., Mar. 10, 2008.

36. Exhibit 35 is a copy of a March 11, 2008 article *Bear Stearns Needs New Business Model, Says Punk Ziegel's Bove*, Bloomberg, L.P., Mar. 11, 2008.

37. Exhibit 36 is a copy of a March 22, 2008 article *Punk Ziegel's Bove Cuts Bear Stearns Price Target to \$45*, Bloomberg, L.P., Mar. 11, 2008.

38. Exhibit 37 is a copy of a March 11, 2008 article *Bear Stearns Falls for Second Day on Cash Concerns (Update1)*, Bloomberg, L.P., Mar. 11, 2008.

39. Exhibit 38 is a copy of a March 11, 2008 report by The Buckingham Research Group, *Bear Stearns (BSC), Liquidity Concerns Seem Overdone; But Lowering 1Q08 EPS On Continuing Mortgage Market Woes*, at 30 (Mar. 11, 2008).

40. Exhibit 39 is a copy of a March 14, 2008 article *Bear Stearns Agrees to Secured Loan Facility with JPMorgan Chase*, Bloomberg, L.P., Mar. 14, 2008.

41. Exhibit 40 is a copy of a March 14, 2008 report by Oppenheimer & Co. Inc., *Downgrading BSC Shares to Underperform from Perform*, at 1 (Mar. 14, 2008).

42. Exhibit 41 is a copy of a March 14, 2008 article from Credit Suisse Securities (USA) LLC, *Bear Stearns (BSC), Downgrade Rating* (Mar. 14, 2008).

43. Exhibit 42 is a copy of a March 14, 2008 article by Mark Pittman and Caroline Salas, *Bear Stearns Has Credit Ratings Slashed After Bailout (Update3)*, Bloomberg, L.P., Mar. 14, 2008.

44. Exhibit 43 is a copy of a March 14, 2008 article Fitch Downgrades Bear Stearns to 'BBB'; Places Ratings on Watch Negative, Bloomberg, L.P., Mar. 14, 2008.

45. Exhibit 44 is a copy of a March 16, 2008 article *JPMorgan Closer On Deal for Bear Stearns*, Associated Press, Mar. 16, 2008.

46. Exhibit 45 is a copy of a March 16, 2008 article JPMorgan Chase to Acquire Bear Stearns, Bloomberg, L.P., Mar. 16, 2008.

47. Exhibit 46 is a copy of a March 17, 2008 report by The Buckingham Research Group, *Security Brokers, Evaluating Liquidity at the Rest of the Brokers in a "Run on the Bank" Scenario*, at 2-3 (Mar. 17, 2008).

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Hanover, New Hampshire
October 13, 2015


Matthew J. Henken